

REINT SUBMISSION TO THE ECONOMIC POLICY SCRUTINY COMMITTEE IN REGARD TO THE RESIDENTIAL TENANCIES LEGISLATION AMENDMENT BILL 2019.

On 16 October 2019 the Attorney-General, Minister Natasha Fyles MLA, introduced the Residential Tenancies Legislation Amendment Bill 2019 to the House. The Real Estate Institute of the Northern Territory Inc. (REINT), is now taking the opportunity to respond to this Bill through the Economic Policy Scrutiny Committee (the Committee). The REINT is doing so, in this instance, in a written format only and does not seek to appear before the Committee on this occasion. However, if the Committee would like to question the REINT on its submission, based on the availability of the REINT CEO and President, it can make itself available to meet with the Committee.

IN GENERAL

In general the REINT did not find this first tranche of amendments to the Residential Tenancies Act 1999 (the Act), as a whole, to be objectionable, and as such is not seeking to block its passage. However, there are a few issues with one proposed section that the REINT feels the Committee should be aware of and may wish to consider.

CONSULTATION

Both the Minister, in her speech to the House, and the Department, in its appearance before the Committee on 29 October 2019, made reference to 'extensive community consultation'. REINT feel this is overstating the level of consultation conducted. The REINT felt the consultation period provided on the Discussion Paper was manifestly inadequate given the importance of reform to this legislation and the level of consultation required across the entirety of the Northern Territory with its Members. However, a request for an extension to the submission timeframe was refused by the Minister and the Department, which no reason provided. The REINT understands that it was not the only stakeholder that sought an extension to the submission timeframe. Therefore we submit that consultation was not as 'extensive' as it might have been if more reasonable timeframes had been applied.

THE BILL

The REINT found it somewhat ‘interesting’ that the Government has chosen to introduce amendments to such a crucial piece of legislation in ‘tranches’ with no indication to the stakeholders as to how many tranches of legislative amendments will be introduced and over what timeframe.

While the REINT appreciates that redrafting such a complex piece of legislation to provide a balance of fairness and equity is not an easy task, we are also mindful that each action, from consultation to responses to further consultation, is time consuming. The concern is that smaller staffed organisations, such as the REINT may be consumed with responding to responses and consultation on this legislation over time, to the detriment of other operational matters.

In working through the proposed amendments to the Act, the REINT has the following comments:

Section 4 amended. This section was amended to remove the words “notice of termination” and replace them with the words “notice of intention to terminate”. The REINT supports this amendment.

Section 24A amended. This section was amended to remove the ability for a Condition report to be made entirely of images. The amendment will require that while a Condition Report may contain pictures, which the REINT believes is extremely important and must remain as part of the process, the report must also contain a written portion. The REINT does not object to this amendment.

Sections 65A and 65B on the Keeping of Pets. The REINT objected, in its submission to the Discussion Paper, to the Northern Territory legislation mimicking Victorian legislation through the introduction of a ‘reverse onus’ or rebuttable presumption’ model that assumes the right of a tenant to keep a pet, even against the wishes of the landlord, and then requires the landlord to take action in the NTCAT to resolve the matter.

This section of the legislation makes reference (in 65A(8)) to the “tenant’s right to keep a pet...”. This language ignores the rights of the owner of the property that is being rented. While a tenant has the right to expect certain things in their tenancy, such as peaceful occupation of the premises and limited access by the landlord or agent without certain permissions or conditions; to assume that a tenant has the ‘absolute right’ to keep a pet on the premises beyond the wishes of the owner is an insult to investors who

have spent a great deal of money purchasing and maintaining a property and offered someone the opportunity to rent that property from them.

The REINT noted in its submission that when this same legislation was proposed in Victoria, the Real Estate Institute of Victoria (REIV) surveyed its membership base and found that up to 25 percent of investors would consider leaving the property market if their rights as owners were undermined in this fashion. The result of that would be a decrease in the available rental stock and a substantial increase in the cost of rents, to the point that the REIV have predicted a 100 percent increase in rents over less than a three year period.

In addition to this, the REINT feels that the Government has not given enough thought to how such legislation will add to NTCAT's already busy workload. If landlords are required to make appearances at NTCAT to rebut the 'right' of a tenant to keep a pet on the rental premises, against the landlord's wishes and instructions, then NTCAT is going to be flooded with such cases and unable to concentrate on more important hearings. Further, there is the cost impost to owners and landlords and agents of the filing fees at NTCAT to take this action, which if the legislation remained unchanged on this matter, would be unnecessary.

The REINT would also draw the Committee's attention to the Minister's speech to the House wherein the Minister stated "This is based on the misplaced notion that a pet will damage or cause other problems with the premises." The REINT disputes that this is indeed a 'misplaced notion' as its members have ample evidence of damage and problems, both major and minor in nature, due entirely to pets kept on a rental premises. The REINT feels it is unwise of the Government to base proposed legislative amendments on incorrect presumptions, and that the Minister's statement seeks to diminish and minimise what can be a major issue, and major cost impost, for landlords.

On these sections the REINT objects to the proposed amendments. The Committee should note that the REINT, while objecting to the amendments in sections 65A and 65B would not seek to stall the passage of the Bill because of its objections to these sections.

Section 77 amended. This amendment seeks to clarify how and when a landlord may enter the premises with force and both the legal right to do so, but also the consequences of any damage caused during that process. The REINT supports this amendment.

Section 83 amended. This merely applies the changes proposed in section 4 wherein the wording of “notice of termination” is replaced with the words “notice of intention to terminate”. The REINT supports this amendment.

Section 90 is replaced. This amendment has simply removed the reference to section 101 in this section, otherwise it remains the same as current legislation. The REINT supports this amendment.

Section 91 amended. This again is a simple amendment to language and removes reference to section 101 in this section. The REINT supports this amendment.

Section 95 is replaced. In line with the amendments to sections 90 and 91 and the REINT supports this amendment.

Part 11, Division 3A & Division 5; Section 101(1), (2) & (3); Section 102 and Section 103, simply make minor but reasonable amendments to the language used in those sections and Parts. The REINT supports all of these amendments.

Section 104(1) amended. This amendment seeks to clarify the powers vested in the NTCAT to make an order for possession of a premises. The REINT supports this amendment.

Section 105(4) is a similar amendment to 104(1) and the REINT supports this amendment.

Section 116A is newly inserted wording. While Section 116 describes the processes required of a landlord or agent to place unreturned bond monies with the Tenancy Trust Account within a 6 month period of them being unclaimed, as explained by the Minister, this new section of 116A seeks to impose a monetary penalty to the landlord or agent in the event of non-compliance with Section 116(1). The REINT notes that the majority of its members are compliant with the requirements of section 116(1), however it does not object to the inclusion of section 116A to ensure compliance.

Part 15 is to be inserted. This part deal entirely with public housing matters and the REINT has no comment to make on this Part.

SUMMARY

In summary, the only part of this Bill that the REINT finds problematic is the proposed amendments to sections 65A and 65B on the Keeping of Pets. We believe these proposed amendments require further investigation by the Committee and consultation

with NTCAT on the potential impact it is likely to have on their already stretched resources, should they be enacted. The Committee should also consider the risk to the rental market should such amendments result in investors and landlords choose to move away from the property market as a result of such legislation. Should this occur it would result in a diminished supply of rental property and a substantial increase in rental prices.

Should the Committee wish to speak with the REINT in regards to this submission, contact in the first instance should be via the REINT Chief Executive Officer, Mr Quentin Kilian, on either ceo@reint.com.au or 8981 8905.

For and on behalf of the Board and Members of the REINT



Quentin Kilian
Chief Executive Officer

5 November 2019.